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## **DECISION NOTICE AND FINDING OF NO SIGNIFICANT IMPACT**

### **ISSUANCE OF PRIORITY OUTFITTER-GUIDE PERMITS AND FOREST PLAN AMENDMENT TO ADJUST OUTFITTER-GUIDE SERVICE DAY ALLOCATIONS**

**USDA Forest Service  
Tonto National Forest  
Gila, Maricopa, Pima and Yavapai Counties, Arizona**

#### **BACKGROUND**

In 2008, the Forest Service issued new direction on outfitter-guide permit administration ([Forest Service Handbook 2709.11 Chapter 41.53](#)). This guidance directs issuance of temporary permits for a maximum of six months with a maximum of 200 service days per permit. In some cases, temporary permits on the Tonto National Forest (TNF) have been issued on an annual basis with more than 200 service days; these are considered long-term temporary permit holders. Furthermore, prior to the 2008 direction, institutional outfitters (e.g., schools, non-profit organizations) could not be issued a priority permit. Under the 2008 direction, the institutional category was abolished and any recurring outfitter-guide use is to be permitted through a priority permit. Priority use provides the foundation for stability of tenure for outfitter-guide operations; allows for longer term business viability and stability; and meets the public need for outfitter-guide services.

The TNF Land and Resource Management Plan (Forest Plan) identifies service day allocations for priority and temporary use by activity (e.g., hunting, hiking, OHV riding) for each Forest Plan Management Area. A service day is any day or part of a day that an outfitter-guide client participates in a recreation activity on the national forest. When an outfitter-guide company is issued a priority (up to 10-year) or temporary (six months or less) permit, the company receives a service day allocation based on the activity it provides and the Forest Plan management area in which it operates.

Currently, there are 14 priority permits on the TNF. The number of temporary permits varies from year-to-year; however, there are approximately 40 temporary permits eligible for priority use providing the following activities: hunting, horseback riding, rafting, hiking/backpacking, OHV/Jeep tours, mountain biking, and shuttle services.

Issuance of a priority permit to long-term temporary permit holders as described above would exceed priority service day allocations for some Management Areas in the Forest Plan. Combining Total Service Days allows for the flexibility to respond to changing trends in outdoor recreation. Actual service days issued to any new priority or temporary permit holder would be based on a business plan, how well existing use meets public and agency need, and the ranger district's capability to administer outfitter-guide permits.

The purpose of this project is to issue priority outfitter-guide permits and amend outfitter-guide service day allocation in the Forest Plan. This action is needed to improve service to the recreating public, better manage the outfitter-guide permit administration, and be in compliance with recent changes in national direction.

## DECISION

This Decision Notice/Finding of No Significant Impact documents my decision as the Responsible Official to authorize priority permit issuance and a Forest Plan amendment. My decision is based upon the analysis documented in the *Environmental Assessment for Issuance of Priority Outfitter-Guide Permits and Forest Plan Amendment to Adjust Outfitter-Guide Service Day Allocations, December, 2012* (EA) and the associated project record.

After reviewing the EA, public comments, and project record documents, I have decided to implement Alternative 2 (Proposed Action), as described in the EA (pp. 11-12), including all mitigations to the Proposed Action. The selected action (Alternative 2) is summarized below.

The TNF will:

- Issue priority use permits in accordance with Forest Service policy to:
  - Long-term temporary permit holders that meet requirements for a priority permit.
  - New permit holders is a need for new or additional use is identified through a needs assessment.
- Amend the Forest Plan to:
  - Create a Total Service Day allocation by activity and management area. Total Service Days will not exceed what is currently authorized in the Forest Plan for combined priority and temporary use. Allocations by activity and management area will be updated in the Forest Plan as shown in Table 2 of the EA (Appendix A, pg. 24).
  - Remove allocations for the number of permits by activity for each management area.
  - Remove allocations for the maximum number of service days per permit.

The following design criteria apply to the Proposed Action:

- Priority use will only be authorized on National Forest System roads and trails and in areas (e.g., river corridors, reservoirs) already authorized for priority outfitter-guide use.
- Priority use will not be authorized on user-created routes or in areas not currently authorized for use by priority outfitter-guides. Priority use requests that involve

constructing new roads or trails would be subject to site-specific environmental analysis.

- Priority use in assigned sites (e.g., designated campsites) will be reviewed for cultural and natural resource concerns.
- Assignment of priority use is at the discretion of the authorized officer. Priority service day allocations will be reviewed and adjusted in accordance with FSH 2709.11 Chapter 41.53.
- Individual priority permit holders will continue to be issued a service day allocation not to exceed the Total Service Day allocation by activity and management area. Issuance of priority service day allocations will comply with existing management direction (e.g., Forest Plan, Wild and Scenic River and Wilderness plans).

## DECISION RATIONALE

Two alternatives are analyzed in detail in the EA: No Action (Alternative 1) and Proposed Action (Alternative 2).

The No Action (Alternative 1) would not amend the Forest Plan and some temporary permit holders would not receive a priority permit because Forest Plan service day allocations for priority use and for the number of permits available in a management area would be exceeded. Some temporary permits would continue to be issued on an annual basis, which would not be in compliance with Forest Service policy for outfitter-guide permit administration.

The Proposed Action (Alternative 2) best meets the Purpose and Need of this project by providing outfitter-guides an opportunity to receive a priority permit. This allows qualified permittees to provide recreation services to the public and ensures continued business opportunity as long as the permittee meets the requirements of the permit. This alternative also allows the TNF to be in compliance with recent changes to outfitter-guide administration policy.

All practical means to avoid or minimize resource degradation have been adopted in the design of Alternative 2. I have included all of the project mitigations. I believe these are necessary to avoid, minimize, or rectify impacts on resources affected by implementation of the Alternative 2. My conclusion is based on a review of the project record that shows a thorough analysis using the best available science. The resource analyses in the EA and project record identify effects, analysis methodologies, reference scientific sources which informed the analysis, and disclose limitations of the analysis.

## PUBLIC INVOLVEMENT

The proposal was listed in the Schedule of Proposed Actions in October 2011. On March 23, 2012, a Scoping Notice was distributed to 861 parties, including 10 Native American Tribes, providing details about the proposed action and asking for public input to the NEPA review. In addition, as part of the public involvement process, the agency sent a news release to media outlets in large and small communities adjacent to the TNF, posted the news release and scoping letter to the TNF website. Four comment letters were received. Their content was considered by

Forest resources specialists in modifying the proposed action and in the impacts analysis disclosed in this EA.

This EA was distributed to those that responded to the March-April 2012 scoping effort or to any one of the Schedule of Proposed Action postings, and to pertinent agencies and tribes. Availability of the EA for a 30-day notice and comment period was advertised as a legal notice in the *Arizona Capitol Times* newspaper and through publication on the forest website in October, 2012. Five comments were received and are summarized in the EA (pg. 3). These comments were either supportive in nature or outside the scope of the project. The EA lists agencies and tribes consulted on page 40.

### FINDING OF NO SIGNIFICANT IMPACT

After considering the environmental effects described in the EA and project record, I have determined that the selected action (Alternative 2) will not have a significant effect on the quality of the human environment, considering the context and intensity of impacts (40 CFR 1508.27). Thus, an environmental impact statement will not be prepared. This is based on the environmental effects documented in the EA, and its associated project record, in consideration of the following factors:

1. **Impacts may be both beneficial and adverse.** My finding of no significant environmental effects is not biased by the beneficial effects of the actions. Negative impacts of this action include possible increased competition among outfitter-guide permittees.
2. **Degree to which the actions affect public health and safety.** There will be no detrimental effects to public health and safety because the selected alternative authorizes priority outfitter-guide use on National Forest System roads and trails and in areas (e.g., river corridors, reservoirs) already authorized for priority outfitter-guide use. These are roads, trails and areas also used by the general public and are considered open to public use.
3. **Unique characteristics of the geographic area.** There will be no significant effects on unique characteristics of the area as a consequence of implementation of the selected actions. Priority use is only authorized on National Forest System roads and trails and in areas (e.g., river corridors, reservoirs) already authorized for priority outfitter-guide use. Any priority use on wild and scenic rivers will be within standards set in the wild and scenic river management plan. Priority use requests that involve constructing new roads or trails would be subject to site-specific environmental analysis; therefore, historic and cultural resources will not be affected. There are no park lands or prime farmlands in or in reasonable proximity to the project area.
4. **Degree to which the effects on the human environment are likely to be highly controversial.** Public response was supportive of the goals identified in the Proposed Action. There were five comment letters during the comment period, and no letters indicated a controversy regarding the effects of the project.
5. **Degree to which the possible effects on the human environment are highly uncertain or involve unique or unknown risks.** The effects analyses summarized in the EA (pp.

12-21) and documented in specialist reports in the project record show that predicted effects to the human environment are not highly uncertain and do not involve unique or unknown risk.

6. **Degree to which the action may establish a precedent for future actions with significant effects or represents a decision in principle about a future condition.** The action is not likely to establish precedent for future actions with significant effects and does not represent a decision in principle about a future consideration. Management direction for outfitter-guides is found in [Forest Service Handbook 2709.11 Chapter 41.53](#). The Forest Plan amendments are intended to align the Forest Plan with Forest Service policy, thus eliminating the potential for confusion among permittees and forest permit administrators about the availability of priority use on the TNF.
7. **Whether the action is related to other actions with individually insignificant but cumulative significant impacts.** Cumulative impacts of the selected actions, as summarized in the EA (pg. 21) are not significant.
8. **Degree to which the action may adversely affect districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places, or may cause loss or destruction of significant scientific, cultural or historic resources.** The selected action will have no significant adverse effect on districts, sites, highways, structures, or objects listed in or eligible for listing in the National Register of Historic Places. The action will also not cause loss or destruction of significant scientific, cultural, or historical resources.
9. **Degree to which the action may adversely affect an Endangered or Threatened species or its habitat that has been determined to be critical under the Endangered Species Act of 1973.** The proposed action will not authorize any ground-disturbing activities that will adversely affect endangered, threatened, and proposed species; and designated and proposed critical habitat that have been listed under the Endangered Species Act of 1973.
10. **Whether the action threatens a violation of Federal, State, or local law or other requirements imposed for protection of the environment.** The action will not violate Federal, State, and local laws or requirements for the protection of the environment. Analysis relevant to applicable laws and regulations is summarized in the EA and project record (see also Findings Required by Other Laws and Regulations, below).

## FINDINGS REQUIRED BY OTHER LAWS AND REGULATIONS

### National Forest Management Act

The National Forest Management Act (16 USC §§ 1600-1614, August 17, 1974) requires the Forest Service to review every proposed action for consistency with the goals, standards and guidelines of the governing Forest Plan. This action is consistent with the Forest Plan.

### Endangered Species Act (ESA)

The ESA requires that Federal agencies ensure that actions are not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or





adverse modification of habitat of their critical habitat. This Decision complies with the ESA: the project will not affect any such species or their habitat.

#### **National Historic Preservation Act (NHPA)**

NHPA and its implementing regulations (36 CFR Part 800) requires Federal agencies to consider the effects of undertakings of properties included in or eligible for the National Register for Historic Places, and to the maximum extent possible, minimize harms to those properties. This Decision complies with NHPA: the project will not affect eligible sites in the project area.

#### **ADMINISTRATIVE REVIEW (APPEAL) OPPORTUNITIES**

This decision is subject to appeal pursuant to Department of Agriculture regulations 36 CFR 251.82. To appeal this decision under 36 CFR 251, a written Notice of Appeal, meeting the content requirements at 36 CFR 251.90 must be postmarked or received within 45 calendar days after the date this notice is published in the Arizona Capitol Times. This publication date is the exclusive means for calculating the time to file an appeal. When the 45-day filing period would end on a Saturday, Sunday, or Federal Holiday, the filing time is extended to the end of the next Federal working day. The Notice of Appeal must be sent to USDA Forest Service, Regional Forester, Attn: Appeals, 333 Broadway SE, Albuquerque, NM 87102. The Notice of Appeal may alternatively be faxed to: USDA Forest Service, Southwestern Region, Regional Forester, Attn: Appeals, at (505) 842-3173. A copy of the appeal must simultaneously be sent to the Forest Supervisor, Tonto National Forest, 2324 E. McDowell Rd, Phoenix, AZ, 85006. Additionally, if an appeal is filed, an oral presentation concerning the appeal (36 CFR 251.97) and/or stay of implementation (36 CFR 251.91) of the decision may be requested at any time prior to closing the appeal record.

#### **IMPLEMENTATION DATE**

If no appeals are filed during the 45-day appeal period, implementation of this decision may occur on, but not before, 5 business days from the close of the appeal filing period. If appeals are filed, implementation may occur on, but not before, the 15th business day following the date of the last appeal disposition.

#### **CONTACT**

For additional information concerning this decision, contact Greg Schuster, Recreation Program Lead, Tonto National Forest, at (602) 225-5362 or [gschuster@fs.fed.us](mailto:gschuster@fs.fed.us).

  
NEIL BOSWORTH

Forest Supervisor

1-8-13

Date



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